

**LENOIR CITY COUNCIL
TUESDAY, JANUARY 16, 2018
6:00 P.M.**

PRESENT: Mayor Gibbons presiding. Councilmembers present were Beal, Perkins, Rohr, Stevens, Thomas and Willis. Also in attendance were City Manager Hildebran, City Attorney Blair and City Clerk Cannon.

ABSENT: Councilmember Perdue.

I. CALL TO ORDER

A. The meeting was opened by a moment of silence followed by the Pledge of Allegiance led by Mayor Gibbons.

**DEPARTMENTAL
PROMOTIONS:**

B. Mayor Gibbons highlighted the following promotions as announced by the Fire and Police Departments:

Fire Department

Scott Powell	Battalion Chief
Chris Jacobs	Captain
Keith Owens	Lieutenant

Police Department

Jody Herman	Lieutenant
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**SPECIAL RECOGNITION; HIBRITEN HIGH
SCHOOL FOOTBALL TEAM:**

C. On behalf of City Council, Mayor Gibbons presented a resolution congratulating the Hibriten High School Football Team (Hibriten Panthers) upon their winning the North Carolina High School Athletic Association's (NCHSAA) 2AA Championship. Mayor Gibbons also presented the team with a prototype of a sign that will be posted at all of the entrances of the City limits following approval by the North Carolina Department of Transportation. The sign states "Home of the 2017 Hibriten Panthers 2AA State Football Champions."

A copy of the resolution is hereby incorporated into these minutes by reference. (Refer to page 10).

Mayor Gibbons also recognized the following members of the football team for their accomplishments:

Regular Season

Noah Haney – Conference Player of the Year
Charles Tassinari – Defensive Player of the Year
McKinley Witherspoon – Offensive Player of the Year

2AA State Championship Game

Miles Simon – Most Valuable Player

Charles Tassinari – Defense Player of the Game

Noah Haney – Offensive Player of the Game

Mayor Gibbons congratulated the coaching staff and players and commended them upon their outstanding season and great sportsmanship. Mayor Gibbons remarked this wonderful memory will last forever and stated the City and community are very proud of their accomplishment.

Head Coach Clay Lewis thanked City Council and commended the team along with the coaching staff for all of their hard work and dedication during the football season. Coach Lewis stated this was a special group of athletes and noted winning this championship was a tremendous experience for each of these fine, young men.

In addition, Coach Lewis remarked this championship was for everyone and commented it was a special moment for the team to experience the amount of support from the community and Caldwell County upon their return from the championship game.

David Colwell, Principal, stated he has spent a lot of time with the players and coaching staff and pointed out the players are a very humble group of young men who treat others and their peers with respect. He emphasized this success has not changed their humility and thanked City Council for all of their support.

On behalf of Hibriten High School, Derek Reeves, Athletic Director, presented the City of Lenoir with a commemorative plaque that included a photo of the football team and coaching staff displaying a championship banner along with a listing of everyone's name.

SPECIAL RECOGNITION; BATALLION CHIEF JIMMY FARR:

- D. On behalf of City Council, Mayor Gibbons presented a resolution to Batallion Chief Jimmy Farr upon his retirement from the Lenoir Fire Department following twenty-nine years of dedicated service to the City of Lenoir and its citizens. Chief Farr has announced his retirement effective January 1, 2018.

A copy of the resolution is hereby incorporated into these minutes by reference. (Refer to page 11).

Deputy Chief Ken Hair presented Chief Farr with a framed shadow box consisting of his shield and number, two commemorative coins, credentials, and badge. Fire Chief Ken Briscoe also presented Chief

Farr with a gold watch that included a picture of a fire patch listing his dates of service.

Mayor Gibbons thanked Chief Farr for a job well done and expressed Council's appreciation for his years of service to the community.

Fire Chief Briscoe further commended Chief Farr for his dedicated and faithful service and for putting himself between any danger to the citizens of the community.

Chief Farr thanked City Council for the recognition and also thanked his family members that was present. He noted it was a team effort and wished his co-workers the very best.

II. MATTERS SCHEDULED FOR PUBLIC HEARINGS

III. CONSENT AGENDA ITEMS

A. Upon a recommendation by City Manager Hildebran, the following Consent Agenda items were submitted for approval:

1. Minutes: Approval of minutes of the City Council Meeting of Tuesday, December 5, 2017 as submitted.
2. FY2017-2018 Annual Audit Contract; City of Lenoir: Approval of the FY2017-2018 Annual Audit Contract for the City of Lenoir in the amount of \$30,105 as submitted by S. Eric Bowman, P.A. A copy of the audit contract is hereby incorporated into these minutes by reference. (Refer to pages 12-17).
3. Final Offer to Purchase Real Property; 518 Hill Street: Final Offer to Purchase Real Property by resolution in the amount of \$5,000.00, following the submission of all upset bids, and as submitted by the Pride of Caldwell County Lodge, #713 to purchase the City owned property located at 518 Hill Street, NCPIN #274-958-5205 (West End Community Center). Note: The legal notice was published in the News-Topic on Friday, December 8 and the City did not receive any upset bids. The Pride of Caldwell County Lodge #713 has requested a 60-day period for due diligence. A copy of the resolution is hereby incorporated into these minutes by reference (Refer to page 18-19).
4. Amendment No. 1, Engineering Service Agreement: Approval of Amendment No. 1 to the Engineering Service Agreement between the City of Lenoir and McGill Associates dated April 10, 2017 for the Water Treatment Plant Improvements construction administration and post construction phase in accordance with the attached proposal. A copy of the amended agreement is hereby incorporated into these minutes by reference. (Refer to pages 20-27).

Upon a motion by Councilmember Stevens, Council voted 6 to 0 to approve the above listed items on the Consent Agenda as recommended by City Manager Hildebran.

IV. REQUESTS AND PETITIONS OF CITIZENS

**J.E. BROYHILL PARK
IMPROVEMENTS PROJECT:**

- A. Reverend Charlie Rivens thanked City Council for all of their support during the Martin Luther King, Jr., Day events. He also inquired about the timeline for the J. E. Broyhill Park Improvements project.

Recreation Director Kenny Story noted the project may be completed by June or earlier if weather permits.

RANKIN STREET:

- B. Reverend Michael Sloan asked City Council if Rankin Street was going to be changed to a one-way street. City Council clarified that no recommendations have been submitted to consider this change.

V. REPORTS OF BOARDS AND COMMISSIONS

VI. REPORT AND RECOMMENDATIONS OF THE CITY MANAGER

A. Items of Information

**PLANNING
BOARD:**

1. The Planning Board will meet on Monday, January 22 at 5:30 p.m.

**COMMITTEE OF THE
WHOLE:**

2. The Committee of the Whole will meet on Tuesday January 23 at 8:30 a.m. at City Hall, Third Floor, former Council Chambers.

LENOIR TOURISM DEVELOPMENT

- AUTHORITY:** 3. The Lenoir Tourism Development Authority will meet on Thursday, January 25 at 3:00 p.m. at City Hall, Third Floor, former Council Chambers.

FOOTHILLS REGIONAL AIRPORT

- AUTHORITY:** 4. The Foothills Regional Airport Authority will meet on Wednesday, January 31 at noon.

**PLANNING
RETREAT:**

5. The City Council Planning Retreat will be held on Friday, February 23 from 8:00 a.m. – 2:00 p.m. at the Blue Ridge Electric Membership Corporation (BREMCO) corporate office located at 1216 Blowing Rock Boulevard.

**BLACK HISTORY
MONTH:**

6. Black History Month will be celebrated during the month of February with events scheduled throughout the month at the Martin Luther King, Jr. Center. This list is available on the City's website.

B. ITEMS FOR COUNCIL ACTION

**CONSTRUCTION BID AWARD; WATER TREATMENT
PLANT IMPROVEMENTS PROJECT:**

1. City Staff recommends Council award the Water Treatment Plant Improvements Project to Brushy Mountain Builders who submitted the low bid of \$8,337,000.00 and is appropriately licensed with the N.C. General Contractor Board and has successfully completed similar projects. Note: Staff further recommends that the City establish a construction contingency of 10% of the construction amount due to the unknowns that could exist within a facility of this type and age and, in addition, to grant the City Manager authority to execute necessary change orders with the project (within the established project contingency) and report those change orders at the next council meeting.

A copy of the bid tab is hereby incorporated into these minutes by reference. (Refer to pages 28).

It was noted the estimated timeline for this project is fifteen (15) months.

Upon a motion by Councilmember Rohr, Council voted 6 to 0 to award the low bid of \$8,337,000.00 to Brushy Mountain Builders for the Water Treatment Plant Improvements Project. City Council also approved Staff's recommendation to establish a construction contingency of 10% of the construction amount due to the unknowns that could exist within a facility of this type and age and, in addition, to grant the City Manager authority to execute necessary change orders with the project (within the established project contingency) and report those change orders at the next council meeting.

**AUTHORIZING RESOLUTION; LOWER CREEK WWTP
BIOSOLIDS HANDLING FACILITY:**

2. City Staff recommends approval of the resolution to authorize the acceptance of state loan/grant assistance in the amount of \$6,600,000.00 at an interest rate of 1.53% and for a term of 20-years for the design and construction of a new Biosolids Handling Facility at the Lower Creek Wastewater Treatment Plant. The estimated closing fee for the loan is \$132,000.00.

A copy of the resolution is hereby incorporated into these minutes by reference. (Refer to page 29).

Councilmember Rohr stated he was philosophically opposed to accepting state and/or federal grant funding.

Upon a motion by Councilmember Thomas, Council voted 5 to 1 to accept state loan/grant assistance in the amount of \$6,600,000.00 and at an interest rate of 1.53% for a term of 20-years for the design and construction of a new Biosolids Handling Facility at the Lower Creek Wastewater Treatment Plant as recommended by City Staff. Councilmember Rohr voted against this request.

**WATER SALES AGREEMENT; BATON
WATER CORPORATION, INC.:**

3. City Staff recommends approval of the proposed Water Sales Agreement between the Baton Water Corporation, Inc. and the City of Lenoir, to provide up to 500,000 gallons of drinking water per day at the applicable wholesale water rate.

A copy of the agreement is hereby incorporated into these minutes by reference. (Refer to pages 30-36).

City Manager Hildebran stated the agreement will remain effective through January 15, 2033 and related Baton Water Corporation has purchased water from the City since 1976. He stated Baton Water Corporation's Board of Directors approved the proposed agreement at their meeting today.

Upon a motion by Mayor Pro-Tem Willis, Council voted 6 to 0 to approve the Water Sales Agreement between Baton Water Corporation, Inc., and the City of Lenoir, to provide up to 500,000 gallons of drinking water per day at the applicable wholesale rate as recommended by City Staff.

**ORDER OF ABATEMENT;
315 BEALL STREET:**

4. City Staff recommends approval of an Order of Abatement Ordinance for property located at 315 Beall Street, NCPIN#274-46-4713, Parcel ID#06-16-2-3, directing Staff to abate the minimum housing violations by demolishing the structure on the property. This property is No. 6 on the City's Minimum Housing Priority List.

A copy of the Order of Abatement is hereby incorporated into these minutes by reference. (Refer to pages 37-38).

City Manager Hildebran stated the structure burned over four years ago and the City has received a number of complaints from area residents.

Upon a motion by Mayor Pro-Tem Willis, Council voted 6 to 0 to approve the Order of Abatement for property located at 315 Beall Street as recommended by City Staff.

**BUDGET ORDINANCE; WATER TREATMENT PLANT
UPGRADE; PHASE II:**

5. City Staff recommends approval of a Budget Ordinance for the Water Treatment Plant Upgrades, Phase II in the amount of \$10,050,000.00.

A copy of the budget ordinance is hereby incorporated into these minutes by reference. (Refer to page 39).

City Manager Hildebran explained the project could get underway once the budget ordinance has been approved by Council.

Upon a motion by Councilmember Thomas, Council voted 6 to 0 to approve the above described Budget Ordinance as presented.

VII. REPORT AND RECOMMENDATIONS OF THE CITY ATTORNEY

VIII. REPORT AND RECOMMENDATIONS OF THE MAYOR

APPOINTMENT OF CITY COUNCIL COMMITTEES:

- A. Upon a recommendation by Mayor Gibbons, a list of City Council representatives was approved to serve on various Committees.

City Council Board Appointments/Representatives

Lenoir Business Advisory Board

Ike Perkins, Ex-Officio member

Jonathan Beal, Ex-Officio member *New appointment

Recreation Advisory Board

Crissy Thomas, Ex-Officio Member

City/County Coordinating Committee

Ike Perkins

Todd Perdue

David Stevens

Representatives

Western Piedmont Council of Governments (WPCOG)

Ben Willis, Delegate

Joe Gibbons, Mayor, Alternate

City/County Services Committee

Joe Gibbons, Mayor

Ben Willis

WPCOG Metropolitan Planning Organization

Ben Willis

Caldwell Railroad Commission (2-year terms)

Todd Perdue

David Stevens, Chairman

Mayor Gibbons also pointed out that each Councilmember was an Ex-Officio member of these committees and could attend as long there was not a quorum of Councilmembers present.

Mayor Pro-Tem Ben Willis informed Council that if any other Councilmember was interested in serving as an alternate on the Western Piedmont Council of Governments' Metropolitan Planning Organization, to let him know. He commented it was an issue for him to attend on occasion due to the meeting being held during the day.

Councilmember Stevens responded that he would discuss this matter with him.

Upon a motion by Councilmember Stevens, Council voted 6 to 0 to approve the proposed list of committee appointments as recommended by Mayor Gibbons.

BOARD APPOINTMENTS; FIREMAN'S RELIEF FUND:

- B. Mayor Gibbons stated that Fire Chief Ken Briscoe recommends that Donna Bean, Finance Director, and Scott Powell, Battalion Chief, be appointed to serve on the Fireman's Relief Fund Board.

Chief Briscoe explained the Board was created by legislation sometime in the 1940's or 50's and was originally formed as an "Alms Board" for firefighters. He stated it was previously called a ½ of 1% fund and later changed to a growth premium tax. This revenue is distributed to over 1,500 fire departments in North Carolina and is derived from fire insurance sold in these districts. Chief Briscoe stated the revenue could only be used for certain things and reported the City uses these funds to pay a monthly stipend of \$60.00 to retired firefighters who have twenty-years of service and are above the age of 60.

Chief Briscoe noted that Finance Director Bean will be replacing Danny Gilbert, former Finance Director, and Scott Powell will be replacing Rodney Warren, retired Firefighter, who recently passed away.

Upon a motion by Councilmember Beal, Council voted 6 to 0 to appoint Donna Bean and Scott Powell to serve on the Fireman's Relief Fund Board as recommended by Chief Briscoe.

IX. REPORT AND RECOMMENDATIONS OF COUNCILMEMBERS

COMMENDED; MARTIN LUTHER KING, JR. DAY

- EVENTS:** A. Councilmember Thomas commended Roger Patterson, President of the Lenoir Chapter of the NAACP, along with City Council, City Staff and all of the citizens for their tremendous community support of the events held in honor of Dr. Martin Luther King, Jr., Day, beginning on Saturday, January 13 through Monday, January 15.

Ms. Thomas stated the annual breakfast and annual march were both very successful and well attended as well as the first church service the group has held in Dr. King's honor. She pointed out the service was streamed live for the general public. It was noted their goal is to continue these traditions and to do things for others.

Councilmember Perkins also thanked City Council and City Staff for all of their support during these events.

X. ADJOURNMENT

- A. There being no further business, the meeting was adjourned at 7:00 p.m.

Shirley M. Cannon, City Clerk

Joseph L. Gibbons, Mayor



RESOLUTION

CONGRATULATING HIBRITEN HIGH SCHOOL 2017 FOOTBALL TEAM AS THE NORTH CAROLINA HIGH SCHOOL ATHLETIC ASSOCIATION'S (NCHSAA) 2AA STATE CHAMPIONS

WHEREAS, Hibriten High School won the 2017 North Carolina High School Athletic Association's (NCHSAA) 2AA State Championship by defeating East Duplin High School in the title game at Kenan Stadium in Chapel Hill by a score of 16-14; and

WHEREAS, the Hibriten Panthers finished the 2017 season with a perfect record of 16-0 making this the first undefeated season in school history and also the first 11-man football state championship team in Caldwell County history; and

WHEREAS, the Hibriten Panther's outstanding athletic excellence resulted in their capturing the 2017 Western Regional Championship, Northwestern Foothills Conference Championship, and the Caldwell County Championship; and

WHEREAS, Head Coach Clay Lewis and the entire coaching staff along with the talented Hibriten Panthers have set an outstanding example as leaders in the community and brought much pride to the City of Lenoir and Caldwell County by their exceptional performance on the football field.

NOW, THEREFORE, I, Joseph L. Gibbons, Mayor of the City of Lenoir, North Carolina, and on behalf of the Lenoir City Council and all the citizens, do hereby give special honor and commendation to the 2017 Hibriten High School Panthers Football Team for their tremendous talent, skill, hard work, and unity which resulted in their winning the North Carolina Athletic Association's 2AA State Championship.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Lenoir to be affixed this 16th day of January 2018.


Joseph L. Gibbons, Mayor



CITY MANAGER
SCOTT E. HILDEBRAN

CITY OF LENOIR
NORTH CAROLINA

MAYOR
JOSEPH L. GIBBONS

CITY COUNCIL
J. T. BEAL
T. H. PERDUE
J. I. PERKINS
T. J. ROHR
D. F. STEVENS
C. D. THOMAS
B. K. WILLIS

RESOLUTION HONORING

JAMES TERRY (JIMMY) FARR, JR.

WHEREAS, James Terry (Jimmy) Farr, Jr. began his career as a Firefighter with the Lenoir Fire Department on March 25, 1989 and was promoted to 2nd, Lieutenant on December 28, 2000 and Lieutenant on October 4, 2001 and Captain on June 5, 2006 and Battalion Chief on June 9, 2013; and

WHEREAS, Jimmy Farr, has announced his retirement effective January 1, 2018 ending 29 years of exemplary service to the citizens of Lenoir and Caldwell County; and

WHEREAS, during his tenure of dedicated service, **Jimmy Farr** has served with great competence and always contributed positively to the professional development of those around him; and

WHEREAS, during all of his endeavors both in and outside the Fire Department **Jimmy Farr** has brought honor and respect to himself and the City of Lenoir by his actions and his fair treatment of all persons;

NOW THEREFORE BE IT RESOLVED, that I, Joseph L. Gibbons, Mayor, and on behalf of the Lenoir City Council and all the citizens do hereby wish the very best for **Jimmy** in his retirement and commend him for the example he has set as a dedicated public servant; and

BE IT FURTHER RESOLVED, that we extend our sincere appreciation and deep gratitude for his faithful and outstanding service which has contributed to the betterment of our City.

Witness my hand and seal this the 2nd day of January, 2018.

SEAL

Joseph L. Gibbons, Mayor



Of City of Lenoir
Primary Government Unit

Discretely Presented Component Unit (DPCU) if applicable

On this 5th day of December, 2017.

Auditor: S. Eric Bowman, PA Auditor Mailing Address: PO Box 1476

Morganton, NC 28680

Hereinafter referred to as The Auditor

and City Council _____ (Governing Board(s)) of _____ City of Lenoir

(Primary Government)

and _____: hereinafter referred to as the Governmental Unit(s), agree as follows:
(Discretely Presented Component Unit)

1. The Auditor shall audit all statements and disclosures required by accounting principles generally accepted in the United States of America (GAAP) and additional required legal statements and disclosures of all funds and/or divisions of the Governmental Unit (s) for the period beginning July 1, 2017, and ending June 30, 2018. The non-major combining, and individual fund statements and schedules shall be subjected to the auditing procedures applied in the audit of the basic financial statements and an opinion shall be rendered in relation to (as applicable) the governmental activities, the business-type activities, the aggregate DPCUs, each major governmental and enterprise fund, and the aggregate remaining fund information (non-major government and enterprise funds, the internal service fund type, and the fiduciary fund types).
2. At a minimum, the Auditor shall conduct his/her audit and render his/her report in accordance with auditing standards generally accepted in the United States of America. The Auditor shall perform the audit in accordance with *Government Auditing Standards* if required by the State Single Audit Implementation Act, as codified in G.S. 159-34. If required by OMB *Uniform Administration Requirements, Cost Principles, and Audit Requirements for Federal Awards*, (Uniform Guidance) and the State Single Audit Implementation Act, the Auditor shall perform a Single Audit. This audit and all associated audit documentation may be subject to review by Federal and State agencies in accordance with Federal and State laws, including the staffs of the Office of State Auditor (OSA) and the Local Government Commission (LGC). If the audit and Auditor communication are found in this review to be substandard, the results of the review may be forwarded to the North Carolina State Board of CPA Examiners (NC State Board). **County and Multi-County Health Departments:** The Office of State Auditor (OSA) will require Auditors of these Governmental Units to perform agreed upon procedures (AUPs) on eligibility determination on certain programs. Both Auditor and Governmental Unit agree that Auditor shall complete and report on these AUPs on Eligibility Determination as required by OSA and in accordance with the instructions and timeline provided by OSA.
3. If an entity is determined to be a component of another government as defined by the group audit standards, the entity's Auditor shall make a good faith effort to comply in a timely manner with the requests of the group auditor in accordance with AU-6 §600.41 - §600.42.
4. This contract contemplates an unqualified opinion being rendered. If during the process of conducting the audit the Auditor determines that it will not be possible to render an unqualified opinion on the financial statements of the unit, the Auditor shall contact the SLGFD staff to discuss the circumstances leading to that conclusion as soon as is practical and before the final report is issued. The audit shall include such tests of the accounting records and such other auditing procedures as are considered by the Auditor to be necessary in the circumstances. Any limitations or restrictions in scope which would lead to a qualification should be fully explained in an attachment to this contract.

Primary Government Unit

Discretely Presented Component Unit (DPCU) if applicable

5. If this audit engagement is subject to the standards for audit as defined in *Government Auditing Standards*, 2011 revisions, issued by the Comptroller General of the United States, then by accepting this engagement, the Auditor warrants that he has met the requirements for a peer review and continuing education as specified in *Government Auditing Standards*. The Auditor agrees to provide a copy of their most recent peer review report regardless of the date of the prior peer review report to the Governmental Unit and the Secretary of the LGC prior to the execution of the audit contract. **If the audit firm received a peer review rating other than pass**, the Auditor shall not contract with the Governmental Unit without first contacting the Secretary of the LGC for a peer review analysis that may result in additional contractual requirements.

If the audit engagement is not subject to Government Accounting Standards or if financial statements are not prepared in accordance with GAAP and fail to include all disclosures required by GAAP, the Auditor shall provide an explanation as to why in an attachment.

6. It is agreed that time is of the essence in this contract. All audits are to be performed and the report of audit submitted to the SLGFD within four months of fiscal year end.
Audit report is due on October 31, 2018. If it becomes necessary to amend this due date or the audit fee, an amended contract along with a written explanation of the delay shall be submitted to the Secretary of the LGC for approval.
7. It is agreed that generally accepted auditing standards include a review of the Governmental Unit's systems of internal control and accounting as same relate to accountability of funds and adherence to budget and law requirements applicable thereto; that the Auditor shall make a written report, which may or may not be a part of the written report of audit, to the Governing Board setting forth his findings, together with his recommendations for improvement. That written report shall include all matters defined as "significant deficiencies and material weaknesses" in AU-C 265 of the *AICPA Professional Standards (Clarified)*. The Auditor shall file a copy of that report with the Secretary of the LGC.
8. All local government and public authority contracts for audit or audit-related work require the approval of the Secretary of the LGC. This includes annual or special audits, agreed upon procedures related to internal controls, bookkeeping or other assistance necessary to prepare the Governmental Unit's records for audit, financial statement preparation, any finance-related investigations, or any other audit-related work in the State of North Carolina. **Invoices for services rendered under these contracts shall not be paid by the Governmental Unit until the invoice has been approved by the Secretary of the LGC.** (This also includes any progress billings.) [G.S. 159-34 and 115C-447] All invoices for Audit work shall be submitted in PDF format to the Secretary of the LGC for approval. The invoices shall be sent via upload through the current portal address: <http://nctreasurer.slgfd.leapfile.net> Subject line should read "Invoice – [Unit Name]. The PDF invoice marked 'approved' with approval date shall be returned by email to the Auditor to present to the Governmental Unit for payment. Approval is not required on contracts and invoices for system improvements and similar services of a non-auditing nature.
9. In consideration of the satisfactory performance of the provisions of this contract, the Primary Government shall pay to the Auditor, upon approval by the Secretary of the LGC, the fee, which includes any cost the Auditor may incur from work paper or peer reviews or any other quality assurance program required by third parties (Federal and State grantor and oversight agencies or other organizations) as required under the Federal and State Single Audit Acts. **(Note: Fees listed on Fees page.)** This does not include fees for any Pre-Issuance reviews that may be required by the NC Association of CPAs (NCACPA) Peer Review Committee or NC State Board of CPA Examiners (see Item #12).
10. If the Governmental Unit has outstanding revenue bonds, the Auditor shall submit to the SLGFD either in the notes to the audited financial statements or as a separate report, a calculation demonstrating compliance with the revenue

Primary Government Unit

Discretely Presented Component Unit (DPCU) if applicable

bond rate covenant. Additionally, the Auditor shall submit to the SLGFD simultaneously with the Governmental Unit's audited financial statements any other bond compliance statements or additional reports required by the authorizing bond documents, unless otherwise specified in the bond documents.

11. After completing the audit, the Auditor shall submit to the Governing Board a written report of audit. This report shall include, but not be limited to, the following information: (a) Management's Discussion and Analysis, (b) the financial statements and notes of the Governmental Unit and all of its component units prepared in accordance with GAAP, (c) supplementary information requested by the Governmental Unit or required for full disclosure under the law, and (d) the Auditor's opinion on the material presented. The Auditor shall furnish the required number of copies of the report of audit to the Governing Board as soon as practical after the close of the fiscal year end.
12. If the audit firm is required by the NC State Board, the NCACPA Peer Review Committee, or the Secretary of the LGC to have a pre-issuance review of its audit work, there shall be a statement in the engagement letter indicating the pre-issuance review requirement. There also shall be a statement that the Governmental Unit shall not be billed for the pre-issuance review. The pre-issuance review shall be performed **prior** to the completed audit being submitted to the SLGFD. The pre-issuance review report shall accompany the audit report upon submission to the SLGFD.
13. The Auditor shall electronically submit the report of audit to the SLGFD as a text-based PDF file when (or prior to) submitting the invoice for services rendered. The report of audit, as filed with the Secretary of the LGC, becomes a matter of public record for inspection, review and copy in the offices of the SLGFD by any interested parties. **Any subsequent revisions to these reports shall be sent to the Secretary of the LGC along with an Audit report Reissuance form.** These audited financial statements, excluding the Auditors' opinion, may be used in the preparation of official statements for debt offerings, by municipal bond rating services to fulfill secondary market disclosure requirements of the Securities and Exchange Commission and for other lawful purposes of the Governmental Unit without subsequent consent of the Auditor. If the SLGFD determines that corrections need to be made to the Governmental Unit's financial statements, those corrections shall be provided within three days of notification unless another deadline is agreed to by the SLGFD.

If the OSA designates certain programs to be audited as major programs, as discussed in item #2, a turnaround document and a representation letter addressed to the OSA shall be submitted to the SLGFD.

The SLGFD's process for submitting contracts, audit reports and invoices is subject to change. Auditors shall use the submission process in effect at the time of submission. The most current instructions will be found on our website: <https://www.nctreasurer.com/slg/Pages/Audit-Forms-and-Resources.aspx>

14. Should circumstances disclosed by the audit call for a more detailed investigation by the Auditor than necessary under ordinary circumstances, the Auditor shall inform the Governing Board in writing of the need for such additional investigation and the additional compensation required therefore. Upon approval by the Secretary of the LGC, this contract may be varied or changed to include the increased time, compensation, or both as may be agreed upon by the Governing Board and the Auditor.
15. If an approved contract needs to be amended for any reason, the change shall be made in writing, on the Amended LGC-205 contract form and pre-audited if the change includes a change in audit fee. This amended contract shall be completed in full, including a written explanation of the change, signed and dated by all original parties to the contract. It shall then be submitted through the audit contract portal to the Secretary of the LGC for approval. The portal address to upload the amended contract is <http://nctreasurer.slgfd.leapfile.net> No change to the audit contract shall be effective unless approved by the Secretary of the LGC, the Governing Board, and the Auditor.

 Primary Government Unit

 Discretely Presented Component Unit (DPCU) if applicable

16. A copy of the engagement letter, issued by the Auditor and signed by both the Auditor and the Governmental Unit shall be attached to the contract, and by reference here becomes part of the contract. In case of conflict between the terms of the engagement letter and the terms of this contract, the terms of this contract shall take precedence. Engagement letter terms that conflict with the contract are deemed to be void unless the conflicting terms of this contract are specifically deleted in Item #23 of this contract. Engagement letters containing indemnification clauses shall not be accepted by the SLGFD.
 17. Special provisions should be limited. Please list any special provisions in an attachment.
 18. A separate contract should not be made for each division to be audited or report to be submitted. If a DPCU is subject to the audit requirements detailed in the Local Government Budget and Fiscal Control Act and a separate audit report is issued, a separate audit contract is required. If a separate report is not to be issued and the DPCU is included in the primary government audit, the DPCU shall be named along with the parent government on this audit contract. DPCU Board approval date, signatures from the DPCU Board chairman and finance officer also shall be included on this contract.
 19. The contract shall be executed, pre-audited, physically signed by all parties including Governmental Unit and the Auditor and then submitted in PDF format to the Secretary of the LGC. The current portal address to upload the contractual documents is <http://nctreasurer.slgfd.leapfile.net>. Electronic signatures are not accepted at this time. Included with this contract are instructions to submit contracts and invoices for approval as of November 2017. These instructions are subject to change. Please check the NC Treasurer's web site at <https://www.nctreasurer.com/slg/Pages/Audit-Forms-and-Resources.aspx> for the most recent instructions.
 20. The contract is not valid until it is approved by the Secretary of the LGC. The staff of the LGC shall notify the Governmental Unit and Auditor of contract approval by email. **The audit should not be started before the contract is approved.**
 21. There are no other agreements between the parties hereto and no other agreements relative hereto that shall be enforceable unless entered into in accordance with the procedure set out herein and approved by the Secretary of the LGC.
 22. **E-Verify.** Auditor **shall comply** with the requirements of NCGS Chapter 64 Article 2. Further, if Auditor utilizes any subcontractor(s), Auditor **shall require** such subcontractor(s) to comply with the requirements of NCGS Chapter 64, Article 2.
 23. All of the above paragraphs are understood and shall apply to this contract, except the following numbered paragraphs shall be deleted: (See Item #16 for clarification).
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SIGNATURE PAGES FOLLOW FEES PAGE

Primary Government Unit

Discretely Presented Component Unit (DPCU) if applicable

FEES – PRIMARY GOVERNMENT

AUDIT: \$ 92 per hour per person

WRITING FINANCIAL STATEMENTS: \$ 92 per hour per person

ALL OTHER NON-ATTEST SERVICES: \$ 92 per hour per person

For all non-attest services the Auditor shall adhere to the independence rules of the AICPA Professional Code of Conduct and *Governmental Auditing Standards* (as applicable). Bookkeeping and other non-attest services necessary to perform the audit shall be included under this contract. However, bookkeeping assistance shall be limited to the extent that the Auditor is not auditing his or her own work or making management decisions. The Governmental Unit shall designate an individual with the suitable skills, knowledge, and/or experience necessary to oversee the services and accept responsibility for the results of the services. Financial statement preparation assistance shall be deemed a "significant threat" requiring the Auditor to apply safeguards sufficient to reduce the threat to an acceptable level. The Auditor shall maintain written documentation of his or her compliance with these standards in the audit work papers.

Prior to submission of the completed audited financial report, applicable compliance reports and amended contract (if required) the Auditor may submit invoices for approval for services rendered, not to exceed 75% of the total of the stated fees above. If the current contracted fee is not fixed in total, invoices for services rendered may be approved for up to 75% of the prior year audit fee.

The 75% cap for interim invoice approval for this audit contract is \$ 30,105

** NA if there is to be no interim billing

FEES – DPCU (IF APPLICABLE)

AUDIT: \$

WRITING FINANCIAL STATEMENTS: \$

ALL OTHER NON-ATTEST SERVICES: \$

For all non-attest services the Auditor shall adhere to the independence rules of the AICPA Professional Code of Conduct and *Governmental Auditing Standards* (as applicable). Bookkeeping and other non-attest services necessary to perform the audit shall be included under this contract. However, bookkeeping assistance shall be limited to the extent that the Auditor is not auditing his or her own work or making management decisions. The Governmental Unit shall designate an individual with the suitable skills, knowledge, and/or experience necessary to oversee the services and accept responsibility for the results of the services. Financial statement preparation assistance shall be deemed a "significant threat" requiring the Auditor to apply safeguards sufficient to reduce the threat to an acceptable level. The Auditor shall maintain written documentation of his or her compliance with these standards in the audit work papers.

Prior to submission of the completed audited financial report, applicable compliance reports and amended contract (if required) the Auditor may submit invoices for approval for services rendered, not to exceed 75% of the total of the stated fees above. If the current contracted fee is not fixed in total, invoices for services rendered may be approved for up to 75% of the prior year audit fee.

The 75% cap for interim invoice approval for this audit contract is \$

** NA if there is to be no interim billing

Discretely Presented Component Unit (DPCU) if applicable

Communication regarding audit contract requests for modification or official approvals will be sent to the email addresses provided in the spaces below.

Audit Firm Signature:

S. Eric Bowman, PA

Name of Audit Firm

By S. Eric Bowman

Authorized Audit firm representative name: Type or print

[Signature]
 Signature of authorized audit firm representative

Date 12-5-17

sericbowmanpa@bellsouth.net

Email Address of Audit Firm

Governmental Unit Signatures:

City of Lenoir

Name of Primary Government

By Joe L. Gibbons - Mayor

Mayor / Chairperson: Type or print name and title

[Signature]
 Signature of Mayor/Chairperson of governing board

Date 1-16-18

By N/A

Chair of Audit Committee - Type or print name

 Signature of Audit Committee Chairperson

Date 1-

** If Governmental Unit has no audit committee, mark this section "N/A"

PRE-AUDIT CERTIFICATE: Required by G.S. 159-28 (a)

This instrument has been pre-audited in the manner required by The Local Government Budget and Fiscal Control Act or by the School Budget and Fiscal Control Act.

By Donna Bean

Primary Government Unit Finance Officer:

Type or print name

Donna Bean

Primary Government Finance Officer Signature

Date 1-16-18

(Pre-audit Certificate *must be dated.*)

dbean@ci.lenoir.nc.us

Email Address of Finance Officer

Date Primary Government Governing Body
 Approved Audit Contract - G.S. 159-34(a)

Please provide us the most current email addresses available as we use this information to update our contact database



CITY MANAGER
SCOTT E. HILDEBRAN

CITY OF LENOIR
NORTH CAROLINA
RESOLUTION

MAYOR
JOSEPH L. GIBBONS

CITY COUNCIL
J. T. BEAL
T. H. PERDUE
J. I. PERKINS
T. J. ROHR
D. F. STEVENS
C. D. THOMAS
B. K. WILLIS

WHEREAS, the City of Lenoir owns certain property, located at 518 Hill Street, Lenoir, N.C., (West End Community Center) and being approximately 0.501281 acre and being Caldwell County Tax Parcel ID#06-17-2-27 and NCPIN#274-958-5205 and more particularly described on the following page; and

WHEREAS, North Carolina General Statute §160A-269 permits the City to sell property by upset bid, after receipt of an offer for the property; and

WHEREAS, the City has received an offer to purchase the property described above, in the amount of \$5,000.00, submitted by the Pride of Caldwell County Lodge #713, Lenoir, N.C.; and

WHEREAS, the Pride of Caldwell County Lodge #713 has paid/will pay the required five percent (5%) deposit on their offer;

NOW, THEREFORE, BE IT RESOLVED, the LENOIR CITY COUNCIL of the City of Lenoir resolves that:

1. The City Council authorizes sale of the property described above through the upset bid procedure of North Carolina General Statute § 160A-269.
2. The City Clerk shall cause a notice of the proposed sale to be published. The notice shall describe the property and the amount of the offer, and shall state the terms under which the offer may be upset.
3. Any person may submit an upset bid to the office of the City Clerk within ten (10) days after the notice of sale is published. Once a qualifying higher bid has been received, that bid will become the new offer.
4. If a qualifying higher bid is received, the City Clerk shall cause a new notice of upset bid to be published, and shall continue to do so until a 10-day period has passed without any qualifying upset bid having been received. At that time, the amount of the final high bid shall be reported to the City Council.
5. A qualifying higher bid is one that raises the existing offer by not less than ten percent (10%) of the first \$1,000.00 of that offer and five percent (5%) of the remainder of that offer.
6. A qualifying higher bid must also be accompanied by a deposit in the amount of five percent (5%) of the bid; the deposit may be made in cash, cashier's check, or certified check. The City will return the deposit on any bid not accepted, and will return the deposit on an offer subject to upset if a qualifying higher bid is received. The City will return the deposit of the final high bidder at closing.

7. The terms of the final sale are that the City Council must approve the final high offer before the sale is closed, which it will do within 30 days after the final upset bid period has passed, and the buyer must pay with cash, cashier's check or certified check at the time of closing.
8. The City reserves the right to withdraw the property from sale at any time before the final high bid is accepted and the right to reject at any time all bids.
9. If no qualifying upset bid is received after the initial public notice, the offer set forth above is hereby accepted. The appropriate City Officials are authorized to execute the instruments necessary to convey the property to the Pride of Caldwell County Lodge #713 of Lenoir, North Carolina.

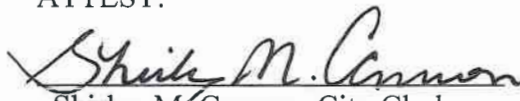
This the 16th day of January, 2018.

SEAL



Joseph L. Gibbons, Mayor

ATTEST:



Shirley M. Cannon, City Clerk

AMENDMENT NO. 1
to the
AGREEMENT FOR ENGINEERING SERVICES – DATED April 10, 2017

NOW, THEREFORE, in consideration of the mutual covenants herein set forth and other good valuable consideration, the parties agree to amend the Agreement for Engineering Services on this the 16th day of January 2018 as follows:

Section 2 – Basic Services shall be amended to include the following services:

2.4 CONSTRUCTION PHASE

Upon successful completion of the Bidding and Award Phase, and upon **written authorization** from OWNER, ENGINEER shall:

- 2.4.1 Schedule a Pre-Construction Conference with the OWNER, Contractor, ENGINEER and all other applicable parties to assure discussion of all matters related to the Project. Prepare and distribute minutes of the Pre-Construction Conference to all parties.
- 2.4.2 Provide General Administration of Construction Contract. Consult with OWNER and act as OWNER's representative as provided in the General Conditions. The extent and limitations of the duties, responsibilities, and authority of ENGINEER as assigned in the General Conditions shall not be modified, except as ENGINEER may otherwise agree in writing. All of OWNER's instructions to Contractor will be issued through ENGINEER, which shall have authority to act on behalf of OWNER in dealings with Contractor to the extent provided in this Agreement and the General Conditions except as otherwise provided in writing. ENGINEER shall not be responsible for the acts or omissions of any Contractor, or of any subcontractors, suppliers, or other individuals or entities performing or furnishing any of the Work. ENGINEER shall not be responsible for the failure of any Contractor to perform or furnish the Work in accordance with the Contract Documents.
- 2.4.3 Provide a Construction Field Representative (CFR) to observe the progress and quality of the executed work and to determine in general if the work is proceeding in accordance with the Contract Documents. During such visits and on the basis of on-site observations as an experienced and qualified design professional, keep the OWNER informed of the progress of the work, endeavor to guard the OWNER against defects and deficiencies in the work of the Contractor.
- 2.4.4 The total construction contract time for the project is anticipated to be **fifteen (15) months**. As part of this contract, field observation will be provided on a full-time basis during active work. **Additional field observation time beyond 40 hours per week would be provided as "On Demand Services" on an hourly basis.** Additional construction phase services, and/or post-construction phase services provided beyond the contract time will involve an increase in the payments to the ENGINEER as Additional Services under Section 3 of this Agreement.

- 2.4.5 The purpose of ENGINEER's visits and the representation by the Construction Field Representative, (CFR) at the Site, will be to enable ENGINEER to better carry out the duties and responsibilities assigned to and undertaken by ENGINEER during the Construction Phase, and, in addition, by the exercise of ENGINEER's efforts as an experienced and qualified design professional, to provide for OWNER a greater degree of confidence that the completed Work will conform in general to the Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. ENGINEER shall not, during such visits or as a result of such observations of Contractor's Work in progress, supervise, direct, or have control over Contractor's Work, nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by Contractor, for security or safety on the Site, for safety precautions and programs incident to Contractor's Work, nor for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work. Accordingly, ENGINEER neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the Work in accordance with the Contract Documents. However, ENGINEER shall give prompt notice to the OWNER whenever ENGINEER observes or otherwise becomes aware of any defect in the Project or of any material deviation of Contractor's work from the Contract Documents.
- 2.4.6 Review and determine the acceptability of any schedules that Contractor is required to submit to ENGINEER, including Progress Schedule, Schedule of Submittals and Schedule of Values.
- 2.4.7 Review and take action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such reviews and any actions will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Review of Shop Drawings and Samples identified as frivolous in the General Conditions of the construction contract documents, or review of substitute materials as defined in the same, shall be deemed as Additional Services.
- 2.4.8 Schedule monthly construction progress meetings during active work periods with the OWNER, Contractor, ENGINEER and all other applicable parties discuss matters related to the Project. Prepare and distribute minutes of the meeting to all parties.
- 2.4.9 Based on ENGINEER's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:
- a. Determine the amounts that ENGINEER recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute ENGINEER's representation to OWNER, based on such observations and

review, that, to the best of ENGINEER's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the quality of such Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is ENGINEER's responsibility to observe Contractor's Work. In the case of unit price work, ENGINEER's recommendations of payment will include final determinations of quantities and classifications of Contractor's Work (subject to any subsequent adjustments allowed by the Contract Documents).

- b. By recommending any payment, ENGINEER shall not thereby be deemed to have represented that observations made by ENGINEER to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to ENGINEER in this Agreement and the Contract Documents. Neither ENGINEER's review of Contractor's Work for the purposes of recommending payments nor ENGINEER's recommendation of any payment including final payment will impose on ENGINEER responsibility to supervise, direct, or control Contractor's Work in progress or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on ENGINEER to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or to determine that title to any portion of the Work in progress, materials, or equipment has passed to OWNER free and clear of any liens, claims, security interests, or encumbrances, or that there may not be other matters at issue between OWNER and Contractor that might affect the amount that should be paid.
- 2.4.10 Require such testing of Contractor's work as deemed reasonably necessary, and receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Contract Documents. ENGINEER's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. ENGINEER shall be entitled to rely on the results of such tests.
 - 2.4.11 Recommend Change Orders and Work Change Directives to Owner, as appropriate, and prepare documentation as required.
 - 2.4.12 Issue instructions to the Contractor from the OWNER as to interpretations and clarifications to the project design plans, specifications and contract documents.
 - 2.4.13 Prepare information required to resolve problems due to actual field conditions and to respond to Requests for Information (RFI) from the Contractor.

- 2.4.14 Render formal written decisions on all duly submitted issues relating to the acceptability of Contractor's work or the interpretation of the requirements of the Contract Documents pertaining to the execution, performance, or progress of Contractor's Work; review each duly submitted Claim by OWNER or Contractor, and in writing either deny such Claim in whole or in part, approve such Claim, or decline to resolve such Claim if ENGINEER in its discretion concludes that to do so would be inappropriate. In rendering such decisions, ENGINEER shall be fair and not show partiality to OWNER or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.
- 2.4.15 Recommend to OWNER that Contractor's Work be rejected while it is in progress if, on the basis of ENGINEER's observations, ENGINEER believes that such Work will not produce a completed Project that conforms generally to the Contract Documents or that it will threaten the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents.
- 2.4.16 Coordinate and track the start-up and commissioning of mechanical equipment associated with the project. Additional site visits required due to work not being ready for start-up, or Contractor scheduling conflicts shall be considered Additional Services.
- 2.4.17 Promptly after notice that Contractor considers the entire Work ready for its intended use, in company with OWNER and Contractor, conduct a pre-final observation site visit to determine if the Work is substantially complete. If after considering any objections of OWNER, ENGINEER considers the Work substantially complete, ENGINEER shall deliver a certificate of Substantial Completion to OWNER and Contractor.
- 2.4.18 In company with OWNER's representatives, conduct a final observation site visit to determine if the completed Work of Contractor is acceptable so that ENGINEER may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, ENGINEER shall also provide a notice that the Work is acceptable to the best of ENGINEER's knowledge, information, and belief and based on the extent of the services provided by ENGINEER under this Agreement.
- 2.4.19 Review Contractor's final application for payment and make recommendation as to approval once all issues with the project final observation site visit have been completed and resolved.
- 2.4.20 Distribute Operation & Maintenance (O&M) manuals received from equipment suppliers for the project to the OWNER.
- 2.4.21 Prepare for the OWNER a set of record drawings showing changes made during the construction process, based on marked-up prints and other data furnished.
- 2.4.22 Provide or make available Project files and information to effect project closeout.

2.5 POST CONSTRUCTION PHASE

- 2.5.1 Provide project commissioning services to verify the successful startup and operation of new major equipment and processes.

- 2.5.2 Assist the OWNER in assuring that the warranty period for the construction work is complied with.
- 2.5.3 Schedule and conduct a one (1) year warranty review with the OWNER and Contractor following the start-up and commissioning of the project. This warranty review will be conducted during the 11th month of operation and will produce a complete listing of findings and required corrections.

Section 3 – Additional Services shall be amended as follows:

- 3.12 Additional or extended services during construction made necessary by prolongation of work hours by the Contractor during a work week, prolongation of the construction contract time, or default by the Contractor under the construction contract if such contract is delayed beyond the original completion date.
- 3.13 Providing Special Inspections, if required to meet City or County building requirements during construction of the project.
- 3.14 Review of Shop Drawings and Samples identified as frivolous in the General Conditions of the construction contract documents, or review of substitute materials as defined in the same General Conditions.
- 3.15 Evaluation of unsuitable subgrade materials during construction.

Section 4 – Owners Responsibilities shall be amended as follows:

- 4.14 Provide timely approvals by the City Manager to Work Change Directives and Change Orders, if required by the Project, to ensure a timely completion date.

Section 6 – Payment to the Engineer, Article 6.1.1 shall be amended to include the following lump sum fees:

Construction Phase	\$590,000
Post Construction Phase	\$25,000
Construction Phase On Demand Services	Hourly Basis

Section 6 – Payment to the Engineer, Article 6.2.1 shall be amended as follows:

- 6.2.1 The OWNER will pay the ENGINEER for Additional Services as outlined in Section 3 an amount based on actual time spent and expenses incurred by principals and employees of the ENGINEER assigned to the Project in accordance with the attached ENGINEER's standard rate and fee schedule Attachment "A.1" dated August 2017, or newer versions.

In accordance with the Agreement for Engineering Services, the Owner agrees to pay the ENGINEER the Total Amendment No. 1 amount noted above for the Additional Services rendered as outlined in the amended Project scope.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first written above.

McGILL ASSOCIATES, P.A.

By: _____

Douglas G. Chapman, PE
Principal

CITY OF LENOIR

ATTEST: _____

Shirley M. Cannon
City Clerk

By: _____

Scott Hildebran
City Manager

PRE-AUDIT CERTIFICATION:

THIS INSTRUMENT has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act as amended.

By: _____

Donna Bean
Donna Bean, Finance Director
City of Lenoir

APPROVED AS TO LEGAL FORM

By: _____

Edward H. Blair, Jr., Groome Tuttle Pike & Blair
City Attorney

ATTACHMENT "A.1" BASIC FEE SCHEDULE

September 2017

<u>PROFESSIONAL FEES</u>	<u>Current Rate</u>
Firm Principal	\$190.00
Program Services Manager I	\$150.00
Program Services Manager II	\$160.00
Senior Project Manager I	\$160.00
Senior Project Manager II	\$170.00
Senior Project Manager III	\$175.00
Project Manager I	\$140.00
Project Manager II	\$150.00
Project Engineer I	\$105.00
Project Engineer II	\$115.00
Project Engineer III	\$125.00
Engineering Associate I	\$ 85.00
Engineering Associate II	\$ 90.00
Engineering Technician I	\$ 80.00
Engineering Technician II	\$ 90.00
Engineering Technician III	\$100.00
Environmental Specialist I	\$ 80.00
Environmental Specialist II	\$ 90.00
Electrical Engineer I	\$105.00
Electrical Engineer II	\$115.00
Electrical Engineer III	\$125.00
Electrical Engineering Associate I	\$ 85.00
Electrical Engineering Associate II	\$ 90.00
Electrical Engineering Technician I	\$ 80.00
Electrical Engineering Technician II	\$ 90.00
Electrical Engineering Technician III	\$100.00
Mechanical Engineer I	\$105.00
Mechanical Engineer II	\$115.00
Mechanical Engineer III	\$125.00
Mechanical Engineering Associate I	\$ 85.00
Mechanical Engineering Associate II	\$ 90.00
Mechanical Engineering Technician I	\$ 80.00
Mechanical Engineering Technician II	\$ 90.00

Minutes-City of Lenoir Council Meeting
Tuesday, January 16, 2018

Mechanical Engineering Technician III	\$100.00
CADD Operator I	\$ 75.00
CADD Operator II	\$ 80.00
CADD Operator III	\$ 85.00
Construction Services Manager I	\$120.00
Construction Services Manager II	\$135.00
Construction Administrator I	\$ 90.00
Construction Administrator II	\$100.00
Construction Administrator III	\$110.00
Construction Field Representative I	\$ 75.00
Construction Field Representative II	\$ 80.00
Construction Field Representative III	\$ 85.00
Construction Project Coordinator	\$ 75.00
Planner I	\$ 95.00
Planner II	\$110.00
Planner III	\$125.00
Planner IV	\$135.00
Surveyor I	\$ 80.00
Surveyor II	\$ 90.00
Surveying Associate I	\$ 70.00
Surveying Associate II	\$ 75.00
Survey Technician I	\$ 70.00
Survey Technician II	\$ 75.00
Survey Field Technician I	\$ 55.00
Survey Field Technician II	\$ 60.00
Survey Field Technician III	\$ 65.00
Administrative Assistant (I-II)	\$ 70.00
Administrative Assistant III	\$ 75.00
Accounting Assistant (I-II)	\$ 80.00

1. **EXPENSES**

- a. Mileage - \$0.65/mile
- b. Robotics/GPS Equipment - \$25/hr.
- c. Survey Drone - \$100/hr.
- d. Telephone, reproduction, postage, lodging, and other incidentals shall be a direct charge per receipt.

2. **ASSOCIATED SERVICES -**

- a. Associated services required by the project such as soil analysis, materials testing, etc., shall be at cost plus ten (10) percent.

CERTIFIED BID TABULATION
WATER TREATMENT PLANT UPGRADE
CITY OF LENOIR NORTH CAROLINA

Tuesday, December 19, 2017; 2:00 pm

Former City Council Chambers, 3rd Floor, City Hall, 801 West Main Street, Lenoir, North Carolina 28645

BIDDER	TOTAL BASE BID	ALTERNATE BID ITEM 1	TOTAL BASE BID PLUS ALTERNATE BID ITEM 1
Brushy Mountain Builders	\$8,337,000	\$350,000	\$8,687,000
Dellinger, Inc.	\$8,434,600	\$735,000	\$9,169,600
State Utility Contractors, Inc.	\$9,053,000	\$360,000	\$9,413,000
Turner Murphy Co., Inc.	\$8,974,882	\$300,000	\$9,274,882
Wharton-Smith Inc.	\$8,889,000	\$300,000	\$9,189,000

This is to certify that the bids tabulated herein were accompanied by a 5% bid bond or certified check and publicly opened and read aloud at 2:00 pm local time on the 19th day of December 2017 in the former Council Chambers (3rd Floor), City Hall, 801 West Avenue NW, Lenoir, North Carolina 28645.

JOEL A. WHITFORD, PE



1240 19th Street Lane NW
 Hickory, North Carolina 28601
 License No. C-0459





CITY MANAGER
SCOTT E. HILDEBRAN

CITY OF LENOIR
NORTH CAROLINA

MAYOR
JOSEPH L. GIBBONS

CITY COUNCIL
J. T. BEAL
T. H. PERDUE
J. I. PERKINS
T. J. ROHR
D. F. STEVENS
C. D. THOMAS
B. K. WILLIS

RESOLUTION BY GOVERNING BODY OF APPLICANT

WHEREAS, the North Carolina Clean Water Revolving Loan and Grant Act of 1987 has authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater treatment works, wastewater collections systems, and water supply systems, water conservation projects, and

WHEREAS, the North Carolina Department of Environmental Quality has offered a (State Revolving Loan, State Grant or State Bond Loan) in the amount of **\$6,600,000** for the construction of the **Lenoir Biosolids Facility Improvements**, and

WHEREAS, the **City of Lenoir** intends to construct said project in accordance with the approved plans and specifications.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF LENOIR CITY COUNCIL:

That **City of Lenoir** does hereby accept the (State Revolving Loan, Grant, or State Board) offer of **\$6,600,000**.

That **City of Lenoir** does hereby give assurance to the North Carolina Department of Environmental Quality that all items specified in the (loan or grant) offer Section II-Assurance will be adhered to.

That **Scott Hildebran, City Manager**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project; to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That **City of Lenoir** has substantially complied or will substantially comply with all Federal, State and local laws, rules, regulations and ordinances to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the **16th day of February, 2018** at Lenoir, North Carolina.

SEAL


Joseph L. Gibbons, Mayor



STATE OF NORTH CAROLINA
COUNTY OF CALDWELL

AGREEMENT TO PURCHASE WATER

THIS CONTRACT is made and entered into this ____ day of _____, 20__ by and between the City of Lenoir, a North Carolina Municipal Corporation hereinafter referred to as "Lenoir" and the Baton Water Corporation, hereinafter referred to as "Baton".

WITNESSETH

WHEREAS, Lenoir and Baton, both having the power and authority to enter into this agreement, and the signatories hereto have been authorized to execute this document on behalf of the Lenoir City Council and Baton; and

WHEREAS, Lenoir currently owns and operates a water treatment and distribution system, and is engaged in the enterprise of managing, operating, and maintaining said system and selling potable water to the public within its service area; and

WHEREAS, Baton owns and operates a water distribution system, and is also engaged in the enterprise of managing, operating, and maintaining the system and selling potable water to the public within its service area; and

WHEREAS, Lenoir and Baton mutually desire to enter into an agreement to sell and purchase water in accordance with the terms and provisions contained herein; and

WHEREAS, Lenoir has determined that it has the capability to sell water to Baton throughout the term of this agreement without impairing services to the users connected to its water system; and

WHEREAS, Lenoir and Baton each has or holds and will continue to have or hold throughout the term of this agreement, all appropriate permits necessary to effectuate their respective responsibilities under this agreement or will use their best efforts to obtain such permits;

NOW THEREFORE, in consideration of the mutual covenants, conditions and terms contained herein, the parties hereto, intending to be legally bound hereby, agree as follows:

1. This agreement shall commence on the ____ day of _____, 2017, and unless earlier terminated in accordance with the terms herein, shall expire on

the ____ day of _____, ____ (Hereinafter referred to as the "Water Service Period".)

2. Lenoir agrees to provide and sell to Baton up to 500,000 GALLONS (FIVE HUNDRED THOUSAND GALLONS) of potable water maximum daily flow, measured through metered connections which are located, prescribed and maintained by Lenoir, at or above minimum State of North Carolina and Federal Standards for Public Water. Such maximum daily flow shall be based on a thirty (30) day average daily flow. Such maximum daily flow to be reviewed every five (5) years.
3. Baton agrees to use best efforts not to exceed the above maximum daily flow provided for in Section 2 of this agreement, unless Lenoir expressly agrees that said maximum daily purchase(s) may exceed 500,000 gallons for a specified period of time.
4. The water purchased by Baton from Lenoir shall be transmitted on a continuous basis unless there is an unforeseen break, outage or interruption of Lenoir's water supply or water distribution system. In which case, Lenoir shall notify Baton of the circumstances and provide timely updates so as to keep Baton informed of the status of repairs or remedy(ies) for any such interruption.
5. Baton agrees to timely pay Lenoir for water purchased on a monthly basis, in accordance with invoices, which shall be based upon meter readings conducted by Lenoir at all metered connections between the Lenoir and Baton water systems. Lenoir agrees to read said water meters monthly and deliver to Baton a written report summarizing said meter readings within fifteen (15) working days of each monthly meter reading. Lenoir will submit to Baton a written invoice based on such meter readings by the 20th day of the following month. Baton agrees to pay Lenoir the amounts of each such monthly invoice within 30 calendar days of the date of each invoice.
6. The initial Base Water Rate charged to Baton for water purchases shall be \$2.17 per one thousand gallons of water provided by Lenoir to Baton. In the event the average daily flow during any monthly billing period exceeds the maximum daily flow of 500,000 gallons, the following surcharges (The "Surcharge Rate") will apply to the overage:

(500,001) to (550,000) gallons – \$2.39/1000 gallons
 (550,001) to (600,000) gallons – \$2.63/1000 gallons
 (600,001) gallons or more – \$2.89/1000 gallons

Over the term of this agreement or any extension thereof, Lenoir may, at its sole discretion, increase the Base Water Rate and /or the Surcharge Rate as it deems necessary. Lenoir shall not increase said rates to Baton more than one time during any fiscal year of twelve (12) months ending on June 30 of each year. Lenoir agrees to notify Baton in writing of planned increases with an explanation of the factors used to determine set increase in rates at least ninety (90) days prior to June 30 of any fiscal year, with rate increases that are to become effective on July 1 of that same year.

7. Lenoir agrees to maintain /repair /replace existing Lenoir water meters at the connection point(s) between the Lenoir and the Baton water system as may be necessary to accurately measure the flow of water through the meter(s) to Baton under this agreement.
8. Baton shall to provide a minimum of six-months advance written notice to Lenoir prior to the expiration of this agreement or subsequent extensions of this agreement if Baton desires to extend the terms of this agreement. Upon timely receipt of such notice of Baton desire to extend this agreement, Lenoir shall, within sixty (60) days after having received such notification, notify Baton in writing of its agreement to such extension of this agreement.
9. In the event that Lenoir elects not to extend this agreement, Lenoir shall continue to provide and sell water to Baton, under the same terms of the agreement, until Baton has had sufficient opportunity to secure an alternate source(s) of potable water; however, Lenoir shall not be bound to continue to provide and sell water to Baton beyond a period of twenty-four (24) months past the date of its written notification to Baton of its intention not to extend this agreement.
10. Baton agrees that Baton and its water customers shall, during the period of this agreement, abide by and adhere to all water use policies, restrictions, and ordinances adopted now or subsequently adopted by Lenoir, of which they are subsequently notified, which impose water use restrictions, water conservation requirements, moratoriums, and other such limitations on the use of water during times of emergency or drought conditions or during other situations which for public health or financial reasons justify said policies, restrictions, and ordinances.
11. Lenoir shall promptly notify Baton upon becoming aware of any activity, problem or circumstance within the Lenoir system that might present a danger to the health, safety and welfare of Baton water users. Further, Lenoir shall take appropriate action to remedy such activity, problem or circumstance within the Lenoir system and to avoid or minimize disruptions in service.
12. In the event of damage or destruction of Lenoir's key water facilities or any emergency which, in the reasonable judgment of Lenoir, is likely to result in material loss or damage to the system or constitute a material threat to human

health or safety, Lenoir may suspend operation of its water system, after thirty (30) days written notice to Baton of such actions unless in the event of an emergency. Lenoir's response to emergencies and other such unusual circumstances shall be in accordance with applicable policies, regulations, laws and requirements and with such personnel and equipment as necessary to maintain or restore the operations of its water system in a timely manner with the least possible disruption or inconvenience to the users connected to both the Lenoir and Baton water systems.

13. Baton shall not resell, give away, transfer or otherwise dispose of water purchased from Lenoir to third-party water systems without the prior written permission of Lenoir.
14. Baton agrees to permit Lenoir to pass water through Baton water distribution system to destinations and/or to other third-party water systems beyond Baton system, provided that Lenoir:
 - a) Submits a written notice to Baton outlining the agreed-upon purposes, quantities and conditions of said pass through of water.
 - b) That said request does not significantly diminish Baton capacity to provide services to its water customers.
 - c) Lenoir subsequently pays to Baton a Pass Through charge of \$0.03 cents per 1000 gallons of pass through water. Baton may request a modification of such charge by with ninety (90) days advance written notice during the period of this agreement.
 - d) Lenoir agrees to install metering equipment to measure and determine the quantities or such Pass Through water passing through Baton water system and report monthly to Baton such amounts and meter readings.
15. Lenoir and Baton both represent that no litigation is pending or threatened against either party which would impair their ability to perform their respective duties and obligations under the terms, covenants and provisions of this agreement.
16. Resolution of Disputes
 The Parties agree that should any disputes arise under this agreement, including but not limited to disputes pertaining to services, rates, or invoices, said disputes shall be resolved, if at all possible, through good faith negotiations between the parties. It is the intent of Lenoir and Baton that pursuit of legal action shall be a remedy of last resort and that a negotiated resolution, including the use of outside experts or mediators, shall be the preferred means of resolving disputes hereunder.

17. Default and Termination

This agreement may be terminated prior to its stated expiration date by Lenoir or Baton in accordance with the terms and conditions set forth below.

A. Termination for cause by Lenoir. Upon the happening of any of the following events of default by Baton, Lenoir shall have the right to terminate this agreement:

- a) The failure of Baton to perform or observe and initiate a cure after thirty (30) days advance written notice any of its material covenants, agreements, obligations and/or duties created by this agreement.
- b) The failure of Baton to make any payment required pursuant to the terms of this agreement within sixty (60) days of its receipt of notice from Lenoir that any such payment is overdue.

B. Termination for cause by Baton. Upon the happening of any of the following events of default by Lenoir, Baton shall have the right to terminate this agreement:

- a) The failure of Lenoir to perform or observe any of its material covenants, agreements, obligations and/or duties created by this agreement.
- b) The failure of Lenoir to provide Baton with the amounts of water in accordance with the terms of this agreement, or to provide adequate water quality for Baton within standards established by the North Carolina Department of Environmental Quality or any other governmental agency with designated jurisdiction over said water quality parameters as provided in this agreement.

18. Upon the happening of any event which may constitute good cause for termination of this agreement as stated above, the aggrieved party shall provide written notice to the party committing the alleged violation setting forth in detail the alleged failure and/or deficiency. Thereafter, within thirty (30) days of receipt of notice of the alleged default, the parties to this agreement shall meet to discuss the circumstances and attempt to reach a resolution.

19. **NOTICES:** For the purposes of this agreement, all notices required shall be deemed to have been properly served and shall be only served when posted by Certified United States Mail, Postage Prepaid, Return Receipt Requested, Addressed to the Party to whom directed at the address herein set forth or at such other address as may from time to time be designated in writing by either party:

To Lenoir:

City of Lenoir
Scott E. Hildebran, City Manager
PO Box 958
Lenoir, North Carolina 28645

To Baton:

Baton Water Corporation

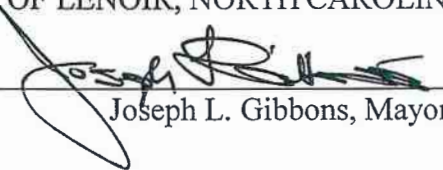
20. This agreement embodies the entire agreement between the parties in connection with this transaction, and there are no oral or parole agreements, representations or inducements existing between the parties relating to this transaction, which are not expressly set forth herein. This agreement may not be modified except by a written agreement signed by all parties to this agreement. Neither party shall be entitled to sell, convey or otherwise alienate the rights and obligations created herein without the prior written permission of the other party to this agreement. This agreement is non-assignable.
21. Nothing contained herein shall be construed to place the parties in the relationship of partners or joint venturers, and neither party shall have the power to obligate or bind the other party in any manner whatsoever. No joint agency is established by this Agreement pursuant to Article 20, Part 1 of Chapter 160A of the North Carolina General Statutes, by other similar statutory authority authorizing interlocal cooperation between units of local government, or otherwise.
22. No written waiver by any party to this agreement at any time of any breach of any other provision of this agreement shall be deemed a waiver of a breach of any provision herein or consent to any subsequent breach of the same or any other provision.
23. The captions and article numbers appearing in this agreement are inserted only as a matter of convenience and do not define, limit, construe or describe the scope of such paragraphs or articles of this agreement or in any way affect this agreement.
24. This agreement shall be governed by and interpreted in accordance with the laws of the State of North Carolina.
25. Words of any gender used in this agreement shall be held to include any other gender, and words in the singular number shall be held to include the plural, when the sense requires.
26. If any provision under this agreement or its application to any person or circumstance is held invalid by any court of competent jurisdiction, such invalidity does not affect any other provision of this agreement or its application that can be given effect without the invalid provision or application.

27. This agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, and it shall not be necessary in making proof of this agreement to produce or account for more than one such fully executed counterpart.

28. Except as provided herein, the rights and remedies provided for in this agreement are cumulative and are not exclusive of any rights or remedies that any party may otherwise have at law or in equity.

IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first above written.

CITY OF LENOIR, NORTH CAROLINA

By: 
Joseph L. Gibbons, Mayor

(SEAL)

Attest:

By: 
Shirley M. Cannon, City Clerk

BATON WATER CORPORATION

By: _____
_____, Board Chair

(SEAL)

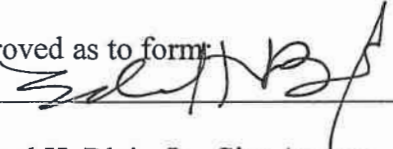
Attest:

By: _____
_____, Secretary

This agreement has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

By: 
_____, Finance Officer

_____, Finance Officer
City of Lenoir, North Carolina

Approved as to form:
By: 

Edward H. Blair, Jr., City Attorney
City of Lenoir, North Carolina

By: _____

_____, Finance Director
Baton Water Corporation

Approved as to form:
By: _____

_____, Attorney
Baton Water Corporation

AN ORDINANCE DIRECTING THE MINIMUM HOUSING INSPECTOR TO REMOVE OR DEMOLISH THE PROPERTY HEREIN DESCRIBED AS UNFIT FOR HUMAN HABITATION AND DIRECTING THAT A NOTICE BE PLACED THEREON THAT THE SAME MAY NOT BE OCCUPIED.

WHEREAS, the City Council of the City of Lenoir finds that the dwelling described herein is unfit for human habitation under the City Housing Standards, and that all of the procedures of the Minimum Housing Standards have been complied with; and

WHEREAS, this dwelling should be removed or demolished, as directed by the Minimum Housing Inspector, and should be placard thereon the notice prohibiting use for human habitation; and

WHEREAS, the owner of this dwelling, **John William Phillips**, has been given a reasonable opportunity to bring the dwelling up to the standards of the Minimum Housing Standards accordance with G.S. 160A-443 (5) pursuant to an order issued by the Minimum Housing Inspector on September 15, 2017 and the owner has failed to comply with the order;

NOW THEREFORE BE IT ORDAINED BY the City Council of the City of Lenoir that:

Section 1. The Minimum Housing Inspector is hereby authorized and directed to place a placard containing the following:

"This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful."

on the building located at the following address: **315 Beall St.**
Lenoir, North Carolina.
Parcel-ID 06 16 2 3
NCPIN 2749464713

Section 2. The Minimum Housing Inspector is hereby authorized and directed to proceed to remove or demolish the described above dwelling in accordance with this Order, and in accordance with the City of Lenoir Minimum Housing Code, and NCGS Chapter 160A, Article 19, Part 6.

Section 3. The cost of demolition and improvement of the lot shall be a tax lien on the real property as provided by G.S. 160A-443 (6).

Section 4. It shall be unlawful for any person to remove or cause to be removed the placard from any building to which it is affixed. It shall be likewise unlawful for any person to occupy or to permit the occupancy of any building therein declared to be unfit for human habitation.

Minutes-City of Lenoir Council Meeting

Tuesday, ~~Section 6~~, 2018. A copy of this ordinance shall be recorded in the Register of Deeds of Caldwell County, North Carolina, and indexed in the name of the property owner or owners in the grantor index.

Adopted this the 16th day of January, 2018.


JOSEPH L. GIBBONS
MAYOR

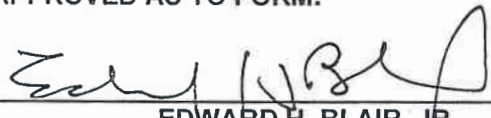
ATTEST:


SHIRLEY M. CANNON
CITY CLERK

CITY OF LENOIR, NC
CHARTERED
JANUARY 28, 1851

SEAL

APPROVED AS TO FORM:


EDWARD H. BLAIR, JR.
CITY ATTORNEY

Budget Ordinance for the City of Lenoir**Water Treatment Plant Upgrade – Phase II**

BE IT ORDAINED by the City Council Members of the City of Lenoir, North Carolina that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following budget ordinance is hereby adopted:

Section 1: The budget authorized activities for the Water Treatment Plant Upgrade – Phase II to include the expenditure of grant funds to upgrade the George L. Bernhardt, Jr. Water Treatment Plant.

Section 2: The officers of this unit are hereby directed to proceed with the project within the terms of the budget contained herein.

Section 3: The following amounts are appropriated for the project:

Construction	\$ 9,395,000
Engineering	\$ 615,000
Administrative	\$ 40,000
Total Costs	<u>\$ 10,050,000</u>

Section 4: The following revenues are anticipated to be available to complete this project:

Project Reimbursement Revenue	\$ 10,050,000
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Section 5: The Finance Officer is hereby directed to maintain within the budget sufficient specific detailed accounting records to satisfy the requirements of the Budget Ordinance.

Section 6: The Finance Officer is directed to report, on a quarterly basis, on the financial status of each project element in Section 3.

Section 7: The Budget Officer is directed to include a detailed analysis of past and future costs and revenues on this project in every budget submission made to this Board.

Section 8: Copies of this budget ordinance shall be furnished to the Budget Officer and the Finance Officer for direction in carrying out this project.

Adopted this 16th day of January, 2018


Mayor


Clerk